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$\begin{bmatrix} 1 \\ 2 \end{bmatrix}$	THE U.S. DISTRICT COURT OF THE DISTRICT OF TEXAS WESTREN DISTRICT							
3	THE U.S. DISTRICT COURT FOR THE DISTRICT OF TEXAS WESTREN DISTRICT							
4	D' STEET							
5	Maximum Agustar	) CASE, NO GE PHILIP MARTINEZ						
6		) )						
7	Plaintiff,	) ) JUDGE:						
8	vs.	(						
9	THE CITY OF EL PASO, TEXAS	EP14CV0294						
10	Officer M. VARA							
11	Being Sued In his individual and official capacities	}						
12	&	) COMPLAINT FOR DEPRIVATION OF RIGHTS UNDER 42 U.S.C. §1983, ET SEQ.;						
13	Judge Daniel Robledo	) RIGHTS UNDER 42 U.S.C. §1983, ET SEQ.; ) COMPENSATORY DAMAGES and ) PUNITIVE DAMAGES						
14	Being Sued In his individual and official	)						
15	capacities							
16	El Paso City Being Sued as a "Person"							
17	Defendants,	DEMAND FOR TRIAL BY JURY						
18								
19	INTRODUCTION &	OPENING STATEMEMT						
20	This is an action brought by Plaintiff Maximum Aguilar against State Officials, in their							
21	respective roles and in their individual capacities and their Corporation of political subdivision,							
22	who, while acting under the color of law, did willfully and with intent deter, suppress, or							
23								
24	otherwise breach some rights of Plaintiff guaranteed and protected by the Federal Constitution,							
25	particularly the 1 <sup>st</sup> , and 5 <sup>th</sup> 14 <sup>th</sup> Amendments and did so in Pursuance to Costume, Practice and							

Policy of El Paso Municipal Subdivision.

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#### JURISDICTION and VENUE I.

1.	This	action	arises under	42 U.S.C.	§1983	(Civil A	Action f	or Depr	ivation o	of Rights), 19	985
1986	, and	1988.	The jurisdict	ion of this	s court	is foun	ided on	federal	question	jurisdiction	, 28
U.S.	C. §1:	331, th	is court also h	as original	jurisdi	ction pu	ırsuant t	o 28 U.S	.C. §134	3.	

2. Venue is proper because all events giving rise to Plaintiffs' causes of action occurred within this district, as provided in 28 U.S.C. § 1391(b)(2).

#### II. PARTIES

- 4. Plaintiff, Maximum Aguilar, herein after "Plaintiff", at all times relevant herein, was domiciled in the city of El Paso, Texas.
- 5. Plaintiff is informed and believes that defendant M. VARA, hereinafter "VARA" is some level of Court Bailiff for Court room #5 In the Municipal Court in El Paso Located at 810 E Overland El Paso, TX 79901 and, as such, was at all times relevant to this action, acting while an employed, compensated, enriched and rewarded employee for the County of El Paso, a political subdivision organized and existing under the laws of the State of Texas. M. Vara is being sued in his individual and official capacities.
- 5. Plaintiff is informed and believes that defendant Judge Daniel Robledo, hereinafter "Daniel" is some level of Judge under the authority of the El Paso County Municipal Court and, as such, was at all times relevant to this action, acting while an employed, compensated, enriched and rewarded employee for the County of El Paso, a political subdivision organized and existing under the laws of the State of Texas "Daniel" is being sued in his individual and official capacities.<sup>1</sup>.

An official capacity suit is, in all respects other than *name*, to be treated as a suit against the entity for which the officer is an agent. Kentucky v. Graham, 473 U.S. 159, 166 (1985)

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Plaintiff is informed and believes that Defendant The City El Paso Hereinafter "El Paso" a political subdivision organized and existing under the laws of the State of Texas "El Paso" is being sued as a "Person" for failure to properly Train and Educate Public Official wither Elected or Appointed about Citizen Constitutional Rights Secured and Guaranteed by the State and Federal Constitution and Further Such Acts where Committed Pursuant to Said Policy and Custom and Practice

### GENERAL FACTUAL ALLEGATIONS

Plaintiff was with other family and Friends went to court Room Number Five and Plaintiff had his back pack and Plaintiff began to go inside the Municipal Court and put his things inside the X Ray Scanner and went through the middle Detector and Passed without any Sound and So did Plaintiff's Sister and Friend.. Plaintiff and Family Proceeded toward Court Number Five where Plaintiff and Sister Observed Bailiff M. VARA Taking Citations and Information, Where Plaintiff had a Hoodie on and M. VARA asked Plaintiff to Take off the Hoodie, Plaintiff asked "Why? Pursuant to what?" M. VARA became aggressive and stated "Its our Policy Take off the Hoodie" and Plaintiff asked "Is Your Policy Above the Constitution the Supreme Law of the Land?" Judge Daniel Robledo shouted "Take Him Outside!" Plaintiff Responded "Have I Committed a Crime? Is there evidence of a Felony?", M. VARA Compelled Plaintiff outside and Demanded Plaintiff sit down on a Chair outside the Court Room, Plaintiff Asked M. VARA "Am I Under Custodial Arrest or a Investigative Detention?" M VARA Responded "No", Plaintiff Inquired "Am I free to Go?" Bailiff Said "No" another Unidentified Officer came near and began lecturing Plaintiff about the Said Policy and Plaintiff Said " Is this Policy Above the Constitution?" Unknown Officer Replied "No but you need to Follow it" Plaintiff Responded "Do you Believe in Jesus? "Unknown Officer said "Don't Preach Religion to me "

So Plaintiff said "Go over there then so I won't talk to you because I want to talk about Faith" Unknown Officer said "You Don't tell me what to do I tell you what to do" and Plaintiff Responded "You are my Public Servant you don't tell me what to do I tell you what to do aren't you required to Uphold my First, Fourth, Fifth, and sixth, Seventh, Eighth, and Fourteenth Amendments?" The Unidentified Officer said "Please Step Outside Sir ,please" So plaintiff was Escorted Outside and Plaintiff was further Questioned Plaintiff "Responded Am I under Custodial Arrest or am is this An Investigative Detention if Not am I free to Go?" Unknown Officers Further interrogated Plaintiff, Plaintiff responded "I invoke my Fifth Amendment Unless you have a Release of Liability Form then I answer any Questions but if I am Not under Arrest then I would like to Go back inside" and Unidentified Officer allowed Plaintiff back in and resumed assisting Plaintiff's Sister and said to her "All People are Innocent until Proven Guilty, also Here is the Judges Oath of Office and cite this Law, Texas Code of Criminal Procedure article 38. Section 22 and 03" Plaintiff Observed Judge Daniel Robeldo Call up Sister and Judge Daniel Robeldo asked "Do you have you License and Prove of Insurance?" She responded "No I didn't bring it" Judge Daniel Robledo stated the officer left and resigned her Case and Plaintiff and Sister and Friend left the court room and building.

### **COUNT I**

# (42 U.S.C. § 1983; Deterring, Suppressing, or breaching freedom of speech)

- 20. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 19 above and incorporates the same as if set forth in full.
- 21. Plaintiff, while being present in a courtroom where Plaintiff had a right to be, engaged in constitutionally protected conduct when wearing a Hoodie was directed to cease this constitutionally protected conduct, was separated from this Family Member and Friend under a show of authority, and thereby precluded from further speaking with Brianna Sister in the

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courtroom while court was in session. Had Plaintiff not so acted, speaking, Plaintiff would not have been subjected to the punishment and rights violations from Judge Daniel Robledo and Bailiff M. VARA.

22. Defendants Judge Daniel Robledo and Bailiff M. VARA.

specific to this deterring of speech committed acts that extended beyond a "mere chilling" of, but clearly violated Plaintiff's First Amendment rights and clearly established law. Further, said acts were committed pursuant to a custom, practice or policy or a failure to train as to deter these rights violations by these court marshals/bailiffs, and that court marshals/bailiffs in El Paso Court are deterring and suppressing the speech of individuals absent any violation of law.

As a further direct result of the conduct of Defendants as set forth in this Count, Plaintiff has suffered odium, emotional distress including but not limited to, frustration, anger, and anxiety, all to his injury in the amount of \$250,000.00.

WHEREFORE Plaintiff prays for Punitive and General Damages against the Defendants jointly and severally.

### **COUNT II** (42 U.S.C. § 1983; Unreasonable seizure of Plaintiff's person)

- Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 19 24. above and incorporates the same as if set forth in full.
- Plaintiff was unreasonably seized in his person by Unidentified Officer of the Court and 25. escorted from the courtroom and directed Plaintiff not to return when M.VARA knew or should have known that Plaintiff had a right to be there in that courtroom and thereby have access to Judge Daniel Robledo acted with a retaliatory animus against Plaintiff as a the courts. motivating factor to punish Plaintiff was a but-for cause of Plaintiff's actions, Plaintiff's constitutionally protected speech and Freedom of Wear of Clothing and Expression and thus.
- Defendant Unknown Officer of the Court specific to this count, made an unreasonable 26. seizure of Plaintiff absent probable cause, warrant, LAWFUL Court order, or any exigent

circumstances that could in any way warrant any reasonable person to affect such a seizure of Plaintiff. Further, said acts were committed pursuant to a custom, practice or policy.

27. As a further direct result of the conduct of Defendants as set forth in this Count, Plaintiff has suffered odium, emotional distress including but not limited to, frustration, anger, and anxiety, all to his injury in the amount of \$250,000.00.

WHEREFORE Plaintiff prays for Punitive and General Damages against the Defendants jointly and severally.

# COUNT III (42 U.S.C. § 1983; Denial of Access to the Courts)

- 28. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 26 above and incorporates the same as if set forth in full.
- M.Vara denied Plaintiff his right to have access to the court by use of Judge Daniel Robledo command and show of authority by which M.Vara directed Plaintiff not return to the courtroom. Judge Daniel Robledo knew or should have known that under these circumstances Bailiff M. VARA had no such authority and, in so acting, violated a clearly established right of Plaintiff's.
  - 29. Defendant Judge Daniel Robledo and Bailiff M. VARA.
- 30. committed acts that clearly violated Plaintiff's First Amendment right and clearly established law specific to the right of the people to have access to the courts. Further, said acts were committed pursuant to a custom practice or policy.
- 31. As a further direct result of the conduct of Defendants as set forth in this Count, Plaintiff has suffered odium, emotional distress including but not limited to, frustration, anger, and anxiety, all to his injury in the amount of \$250,000.00.

WHEREFORE Plaintiff prays for Punitive and General Damages against the Defendants jointly and severally.

# COUNT IV (42 U.S.C. § 1983; Denied equal protection under the law)

32. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 51 above and incorporates the same as if set forth in full.

33. Defendant(s) Judge Daniel Robledo and Bailiff M. VARA.

- 34. knew or should have known that courtrooms are public places and that all are welcome to observe open proceedings, outside jurors, judges, clerks, and parties to any civil or criminal actions; a clearly established right. Judge Daniel Robledo and Bailiff M. VARA by singling out Plaintiff denied Plaintiff the right to be in this public place and therefore denied Plaintiff his right to enjoy equal protection under the law to be in a public place as are others.
- 35. Defendant(s) Judge Daniel Robledo and Bailiff M.VARA committed acts that clearly violated Plaintiff's Fourteenth Amendment rights and clearly established law. Further, said acts were committed pursuant to a custom practice or policy.
- 36. As a further direct result of the conduct of Defendants as set forth in this Count, Plaintiff has suffered odium, emotional distress including but not limited to, frustration, anger, and Anxiety, all to his injury in the amount of \$250,000.00.

WHEREFORE Plaintiff prays for Punitive and General Damages against the Defendants jointly and severally.

# COUNT V (Negligence)

- 36. 61. Plaintiff' repeats and re-alleges the allegations contained in paragraphs 1 through 34 above and incorporates the same as if set forth in full.
  - 37. Defendants, Judge Daniel Robledo and Bailiff M. VARA have a legal duty to prevent and refrain from conduct that deters, suppresses, or otherwise breaches Plaintiff's Constitutionally protected rights and clearly established law regarding how public servants conduct themselves with respect to the people and citizens of these United States.
- 38. Because of the foregoing, Defendants were the actual and proximate cause of all injury suffered by Plaintiff.

WHEREFORE Plaintiff prays for Punitive and General Damages against the Defendants jointly and severally, for Tortious Negligence.

# 

### <u>COUNT VI</u> (Intentional Infliction of Emotional and Mental Distress)

- 66. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 65 above and incorporates the same as if set forth in full.
- 67. Defendants Judge Daniel Robledo and Bailiff M. VARA. committed acts with, at minimum an expectation, to greatly intimidate and/or scare Plaintiff to such a degree as to deter and prevent Plaintiff from wearing and Questioning Officers of the Court when Plaintiff had a right to do so and to deter Plaintiff from returning to the courtroom.
- 68. Defendants' conduct was grossly unreasonable, and as a direct and proximate result of their actions Plaintiff has sustained substantial emotional distress therefrom and was further said acts where committed pursuant said Policy and Custom and Practice.

WHEREFORE Plaintiff prays for Compensatory and Punitive Damages against the Defendants jointly and severally, for the tort of Intentional Infliction of Mental Distress.

**WHEREFORE**, Plaintiff prays for relief against Defendants, and each of them, as follows:

## **AS TO COUNT I-IV**

- a) For general damages against defendants Judge Daniel Robledo and Bailiff M.
   VARA.
- b) in their individual and official capacities in the amount of \$500,000 For punitive damages against the appropriate Defendants in the amount of \$50,000.
- c) For compensatory damages against the appropriate Defendants in the amount of \$ 50,000.

## **AS TO COUNT V-VI**

Maximum Aguilar 1141 Boundary St. Anthony,NM.88021

Date: 3/25/2013

#### Lawful Notification Letter

To: M. Vara

(810 E Overland El Paso, TX 79901)

This letter is lawful notification to you, pursuant to The Bill of Rights of the National Constitution, in particular, the First, Fourth, Fifth, Sixth and Ninth Amendments, and the Texas State Constitution, in particular, Article 16, Sections 1, and pursuant to your oath, and requires your written response to me specific to the subject Your failure to respond, within 30 days, as stipulated, and rebut, with particularity, everything in this letter with which you disagree is your lawful, legal and binding agreement with and admission to the fact that everything in this letter is true, correct, legal, lawful and binding upon you, in any court, anywhere in America, without your protest or objection or that of those who represent you. Your silence is your Connally v. General Construction Co., 269 U.S. 385, 391. acquiescence. See: Notification of legal responsibility is "the first essential of due process of law." Also, see: U.S. v. Tweel, 550 F. 2d. 297. "Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading."

You swore an oath to uphold and support the Constitution of the United States of America, and pursuant to your oath, you are required to abide by that oath in the performance of your official duties. You have no Constitutional or other valid authority to defy the Constitution, to which you owe your LIMITED authority, delegated to you by and through the People, and to which you swore your oath, yet, by your actions against me, committed on May 3, 2011, by which you unlawfully detained me against my will demanded personal information under threat, you perjured your oath by violating my Constitutionally guaranteed Rights, in particular those secured in the Bill of Rights, including, but not limited to, my 1<sup>st</sup> and 14<sup>th</sup> Amendment Rights. By your unlawful actions, you acted in sedition and insurrection against the Constitutions, both federal and state, and in treason against the People, in the instant case, me.

There is no authority in the Federal Constitution, whatsoever, for the existence of administrative agencies, in general, and specifically, for the agency for which you work. Neither the Federal Constitution nor the Texas State Constitution, authorize any agency or agents thereof, as are you, to convert the unlimited, unalienable Rights, guaranteed to the Citizens of this Nation and this State, in the instant case, me, into privileges, which are then regulated or taxed, as agencies of government are unlawfully doing on most

roads, or to impose punitive actions upon Citizens, such as me, for simply exercising our Rights to freely travel.

As you well know, I displayed no errant behavior and harmed no one by my actions; yet, you made an unwarranted, unlawful assumption or presumption, not based on any fact, law or evidence, that I didn't take off my Hoodie and is my Freedom of Expression and compelled me outside the Court Room in Conspiracy with Judge Daniel Robledo You had no authority to make assumptions or presumptions about me or to detain and question me as I had only been asking Questions. Additionally, I made numerous demands upon you to answer what Crime I was suspected of Doing which you refused and failed to provide to me. Further, no Citizen-party made a sworn complaint against me alleging damages caused by my alleged actions, thus, you had no probable cause for your detaining me and citing me, as you did.

Anytime public officers, pursuant to their oaths, violate Rights guaranteed to Citizens in the Constitutions, they act outside their limited delegated authority, thus, perjure their oaths, and by their own actions, invoke the self-executing Sections 3 and 4 of the 14<sup>th</sup> Amendment; thereby vacate their offices and forfeit all benefits thereof, including salaries and pensions, as you did.

By your stepping outside of your delegated authority you lost any "perceived immunity" of your office and you can be sued for your wrongdoing against me, personally, privately, individually and in your professional capacity, as can all those in your jurisdiction, including your supervisors and anyone having oversight responsibility for you, including any judges or prosecuting attorneys and public officers for that iurisdiction, if, once they are notified of your wrongdoing, they fail to take lawful actions to correct it, pursuant to their oaths and their duties, thereto. If they fail to act and correct the matter, then, they condone, aid and abet your criminal actions, and further, collude and conspire to deprive me and other Citizens of their Rights guaranteed in the Constitutions, as a custom, practice and usual business operation of their office and the jurisdiction for which they work. This constitutes treason by the entire jurisdiction against me, and based upon the actions taken and what exists on the public record, it is impossible for any public officer to defend himself against treason committed. assured that I will claim and protect my Constitutionally guaranteed Rights which you, the court and this entire jurisdiction have unlawfully, and without Constitutional authority, denied.

If you disagree with anything in this letter, then rebut that with which you disagree, in writing, with particularity, to me, within 30 days of this letter's date, and support your disagreement with evidence, fact and law. Your failure to respond, as stipulated, is your agreement with and admission to the fact that everything in this letter is true, correct, legal, lawful, and is your irrevocable agreement attesting to this, fully binding upon you, in any court in America, without your protest or objection or that of those who represent you.

All Rights Reserved,

## Case 3:14-cv-00294-PRM Document 3 Filed 08/27/14 Page 13 of 21

Maximum Aguilar 1141 Boundary Street Anthony, NM. 88021 9158419556

MaximumAguilar888@hotmail.com

Maximum Aguilar 1141 Boundary St. Anthony,NM.88021

Date: 2/6/2013

#### Lawful Notification Letter

To: Judge Daniel Robledo (810 E Overland El Paso, TX 79901)

This letter is lawful notification to you, pursuant to The Bill of Rights of the National Constitution, in particular, the First, Fourth, Fifth, Sixth and Ninth Amendments, and the Texas State Constitution, in particular, Article 16, Sections 1 and 8, and pursuant to your oath, and requires your written response to me specific to the subject matter. Your failure to respond, within 30 days, as stipulated, and rebut, with particularity, everything in this letter with which you disagree is your lawful, legal and binding agreement with and admission to the fact that everything in this letter is true, correct, legal, lawful and binding upon you, in any court, anywhere in America, without your protest or objection or that of those who represent you. Your silence is your acquiescence. See: Connally v. General Construction Co., 269 U.S. 385, 391. Notification of legal responsibility is "the first essential of due process of law." Also, see: U.S. v. Tweel, 550 F. 2d. 297. "Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading."

You swore an oath to uphold and support the Constitution of the United States of America, and pursuant to your oath, you are required to abide by that oath in the performance of your official duties. You have no Constitutional or other valid authority to defy the Constitution, to which you owe your LIMITED authority, delegated to you by and through the People, and to which you swore your oath, yet, by your actions against me, committed on May 3, 2011, by which you unlawfully detained me against my will demanded personal information under threat, you perjured your oath by violating my Constitutionally guaranteed Rights, in particular those secured in the Bill of Rights, including, but not limited to, my 1<sup>st</sup> and 14<sup>th</sup> Amendment Rights. By your unlawful actions, you acted in sedition and insurrection against the Constitutions, both federal and state, and in treason against the People, in the instant case, me.

There is no authority in the Federal Constitution, whatsoever, for the existence of administrative agencies, in general, and specifically, for the agency for which you work. Neither the Federal Constitution nor the Texas State Constitution, authorize any agency or agents thereof, as are you, to convert the unlimited, unalienable Rights, guaranteed to the Citizens of this Nation and this State, in the instant case, me, into privileges, which are then regulated or taxed, as agencies of government are unlawfully doing on most

roads, or to impose punitive actions upon Citizens, such as me, for simply exercising our Rights to freely travel.

As you well know, I displayed no errant behavior and harmed no one by my actions; yet, you made an unwarranted, unlawful assumption or presumption, not based on any fact, law or evidence, that I didn't take off my Hoodie and is my Freedom of Expression and compelled me outside the Court Room in Conspiracy with Judge Daniel Robledo You had no authority to make assumptions or presumptions about me or to detain and question me as I had only been asking Questions and wearing a hoodie in Court which is my Constitutionally Protected Conduct to Do so. Additionally, I made numerous demands upon you to answer what Crime I was suspected of Doing which you refused and failed to provide to me. Further, no Citizen-party made a sworn complaint against me alleging damages caused by my alleged actions, thus, you had no probable cause for your detaining me and citing me, as you did.

Anytime public officers, pursuant to their oaths, violate Rights guaranteed to Citizens in the Constitutions, they act outside their limited delegated authority, thus, perjure their oaths, and by their own actions, invoke the self-executing Sections 3 and 4 of the 14<sup>th</sup> Amendment; thereby vacate their offices and forfeit all benefits thereof, including salaries and pensions, as you did.

By your stepping outside of your delegated authority you lost any "perceived immunity" of your office and you can be sued for your wrongdoing against me, personally, privately, individually and in your professional capacity, as can all those in your jurisdiction, including your supervisors and anyone having oversight responsibility for you, including any judges or prosecuting attorneys and public officers for that iurisdiction, if, once they are notified of your wrongdoing, they fail to take lawful actions to correct it, pursuant to their oaths and their duties, thereto. If they fail to act and correct the matter, then, they condone, aid and abet your criminal actions, and further, collude and conspire to deprive me and other Citizens of their Rights guaranteed in the Constitutions, as a custom, practice and usual business operation of their office and the jurisdiction for which they work. This constitutes treason by the entire jurisdiction against me, and based upon the actions taken and what exists on the public record, it is impossible for any public officer to defend himself against treason committed. assured that I will claim and protect my Constitutionally guaranteed Rights which you, the court and this entire jurisdiction have unlawfully, and without Constitutional authority, denied.

If you disagree with anything in this letter, then rebut that with which you disagree, in writing, with particularity, to me, within 30 days of this letter's date, and support your disagreement with evidence, fact and law. Your failure to PROPERLY respond, as stipulated, is your agreement with and admission to the fact that everything in this letter is true, correct, legal, lawful, and is your irrevocable agreement attesting to this, fully binding upon you, in any court in America, without your protest or objection or that of those who represent you.

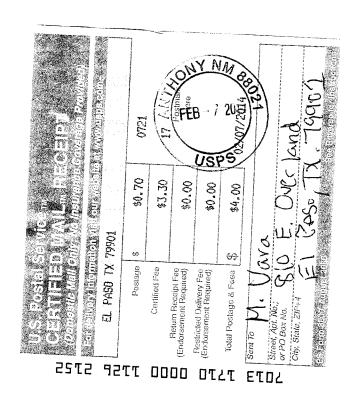
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## Case 3:14-cv-00294-PRM Document 3 Filed 08/27/14 Page 16 of 21

Maximum Aguilar 1141 Boundary Street Anthony,NM.88021

9158419556 MaximumAguilar888@hotmail.com

	Case 3:14-cv-00294-PRM	Document 3	Filed 08/27/14	Page 17 of 21
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